HIGH COURT OF CHHATTISGARH AT BILASPUR

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WRIT PETITION No. 1724 of 2001

PETITIONERS : 1. B.Ghoshal, aged 63 S/o. Late A. Ghosal R/o. 531, Sindhiya Nagar, P.O. & Dist. Durg Chhattisgarh.
2. A.K.Kanjilal, aged 65, S/o. Late Fatiechand Kanjilal R/O. No. 522, Sindiya Nagar, P.O. & Dist. Durg Chhattisgarh.
3. S.K.Goswamy, aged 67 S/o Late B.K.Goswamy, aged 67 P.O. & Dist. Durg Chhattisgarh.
4. P.K.Dey, aged 64 C/o late P.Dey R/o 11/12, Sindhiya Nagar, P.O. & Dist. Durg Chhattisgarh.
5. S.P.Arjaria, aged 66 S/o Late P.N.Arjaria R/o 528, Sindhiya Nagar P.O. & Dist. Durg Chhattisgarh.
6. Jairaj Bhatia, aged 30 S/o Late M.K.Bhatia, R/o 532, Sindhiya Nagar, P.O. & Dist. Durg Chhattisgarh.
7. Dilip Kumar Biswas, aged 45 S/o Late N.N.Biswas R/O 526, Sindhiya Nagar P.O. & Distt. Durg Chhattisgarh.
8. Nirmal Krishna Goswami, aged 64 S/o Late B.K.Goswamy R/o 415, Sindhiya Nagar, P.O. & Dist. Durg Chhattisgarh.

VERSUS

RESPONDENTS : 1. Director Under Nagar Tatha Gram Nivesh Adhiniyam, 1973, Raipur, Chhattisgarh.
2. Deputy Director Nagar Tatha Gram Nivesh Dist. Office, P.O. & A.T. Durg, Chhattisgarh.
3. District Magistrate/Collector, Dist. Durg (Chhattisgarh)
4. Commissioner Durg Municipal Corporation P.O. Dist. Durg (Chhattisgarh)
5. Secretary Revenue Department Chhattisgarh State, Raipur Chhattisgarh
6. Deputy Secretary Office of the Governor of Chhattisgarh, Raipur, Chhattisgarh.
7. Regional Manager Pollution Control Board Bhilai, Chhattisgarh.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Coram : Hon'ble Shri Jagdish Bhalla, Acting Chief Justice &
Hon'ble Shri Satish K. Agnihotri J.

Present: Shri P.K.Moitra, Advocate for the petitioners.
Shri N.K.Agrawal, Deputy Advocate General for the respondent No. 1, 2, 3, 5 and 6/State.
Shri Sudhir Kumar Bajpai, Advocate for the respondent No. 7.

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ORDER
(Passed on 16th day of August, 2007)

Learned counsel appearing for the petitioners submits that the petitioners have approached this Court that the land which has been acquired for park, which was earlier being used for burial and cremation, is still being used for burial and cremation and he prays that a direction be issued to the authorities concerned to use the land in question only as for park and not as burial or cremation center. According to the affidavit filed by the opposite party No. 4, it is being said that the land in question is still being used as burial/cremation center. However, the learned Deputy Advocate General on behalf of the respondents No. 1, 2, 3, 5 and 6 has categorically submitted that the land in question now is being used only for the purpose of park and it is not being used for burial and cremation.

We find that the petitioners have not filed any rejoinder/affidavit to the response of the aforesaid counter affidavits. Non-controverting the contents of the counter affidavit amounts to admission. We are of the considered opinion that this Court under Article 226 of the Constitution of India cannot decide the disputed question of facts. If the petitioners have some disputed question of facts, it would be open to the petitioners to approach the Nazul Officer or any other appropriate authority.

In light of the above, the writ petition is dismissed.

Sd/-
Acting Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Amit